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STATE OF CONNECTICUT
DEPARTMENT OF REVENUE SERVICES

IP 2002(10)

INFORMATIONAL PUBLICATION

**Farmer's Guide to Sales and Use Taxes, Motor Vehicle Fuels Tax,
Estimated Income Tax, and Withholding Tax**

Purpose: Retail sales of tangible personal property used exclusively in agricultural production are exempt from sales and use taxes under Conn. Gen. Stat. §12-412(63) if the purchaser qualifies for and has been issued **Form OR-248, Farmer Tax Exemption Permit**, by the Department of Revenue Services (DRS). Conn. Gen. Stat. §12-412(63) does not apply to services. This publication answers some frequently asked questions about farmer tax exemption permits ("exemption permit") and explains the taxation of sales made to and by those engaged in agricultural production, including a discussion of the exemption for certain seeds. In addition, this publication describes the exemption and refund provisions for purchases of motor vehicle fuels by farmers, the rules for farmers to make estimated personal income tax payments, and the withholding requirements for agricultural employees.

Effective Date: Effective upon issuance.

Statutory Authority: Conn. Gen. Stat. §12-412(63) and (96); Conn. Gen. Stat. §12-458; Conn. Gen. Stat. §12-459; Conn. Gen. Stat. §12-705; and Conn. Gen. Stat. §12-722.

1. Who may apply for an exemption permit?

Any person is eligible for an exemption permit if the person is engaged in agricultural production as a trade or business. To be engaged in agricultural production as a trade or business, a person must **both** engage in the production with a profit motive and materially participate in the production. The applicant must also meet the following requirements:

- The applicant had gross income of \$2,500 or more from agricultural production, as reported for federal income tax purposes, in the preceding taxable year or, on average in the two preceding taxable years; or
- An applicant whose gross income from agricultural production in the preceding taxable year was less than \$2,500 may still qualify for an exemption permit, if, in the current or immediately preceding

taxable year, the applicant bought an agricultural trade or business from a seller who had an exemption permit at the time of the sale. However, if the applicant does **not** carry on the agricultural trade or business for at least two years from the date of purchase, the applicant will be liable for the sales or use tax that would have been due without the exemption; or

- The applicant is starting a new farming business (start-up farmer) and intends to carry on agricultural production as a trade or business for at least two years.

2. Who qualifies as a start-up farmer?

For an exemption permit purposes, a start-up farmer is a person who:

- Was not engaged in agricultural production as a trade or business in the preceding taxable year, or
 - Did not have gross income of \$2,500 or more from agricultural production, as reported for federal income tax purposes, in the preceding taxable year, or, on average in the two preceding taxable years.
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3. What special requirements does the start-up farmer have to qualify for an exemption permit?

To qualify for an exemption permit, the start-up farmer must satisfy the following requirements:

- The farmer intends to carry on agricultural production as a trade or business for at least two years after the exemption permit is issued; and
- The farmer's gross income from agricultural production, as reported for federal income tax purposes, will be at least \$2,500 in the second year or an average of at least \$2,500 per year for two years after the exemption permit is issued; and
- The farmer's gross expenses from agricultural production, as reported for federal income tax purposes, will be at least \$2,500 in the second year or an average of at least \$2,500 per year for two years after the exemption permit is issued.

Example: In the first year of farming, a start-up farmer had \$1,500 of gross income and \$3,000 of expenses from agricultural production. In the second year of farming, the start-up farmer had \$3,500 of gross income and \$2,000 of expenses from agricultural production. The average gross income is \$2,500 ($\$1,500 + \$3,500 / 2$) and the average expenses are also \$2,500 ($\$3,000 + \$2,000 / 2$). This start-up farmer satisfies the income and expense tests.

If the start-up farmer does not meet all of these requirements, the farmer will be liable for the sales or use tax that would have been due without the exemption. The tax on the purchases made under the exemption during the two year start-up period is due and must be paid with the first sales and use tax return due following the end of the start-up period.

If the start-up farmer does not meet the renewal requirements, the farmer may **not** reapply for an exemption permit as a start-up farmer.

4. What farming activities are considered agricultural production?

Raising and harvesting any agricultural or horticultural commodity; dairy farming; forestry; raising, boarding or training livestock and poultry; or raising and harvesting fish, oysters, clams, mussels, or other molluscan shellfish are considered agricultural production.

Individuals engaged solely in buying agricultural products for resale are not engaged in agricultural production. For example, cut flowers or plants sold by a farmer at a roadside stand are not agricultural products if the farmer purchased the flowers or plants for resale.

5. Can selling timber qualify someone for the exemption permit?

No. Sales of timber by a person who is not engaged in farming or forestry management do not qualify as sales of agricultural products raised in agricultural production.

6. Are livestock breeders eligible for an exemption permit?

Yes, if the breeder meets the requirements listed in Question 1. However, a breeder who is required for federal income tax purposes to treat his or her income from the sales of livestock as capital gains does not qualify.

7. Is a person engaged in the business of boarding horses that are owned by others eligible for an exemption permit?

Yes. Agricultural production includes the raising, feeding, caring for, shearing, training, or management of livestock, including horses. Therefore, a farmer who boards or trains horses and who meets the requirements listed in Question 1 may qualify for an exemption permit. For more information, see **Ruling No. 96-5**.

8. Is the operator of a fish farm or hatchery that engages in breeding fish and confinement raising of fish eligible for an exemption permit?

Yes. The operation of a fish farm or hatchery is considered agricultural production; therefore, the operator is eligible for an exemption permit.

9. How can I apply for an exemption permit?

To obtain an exemption permit, you must complete and submit **Form REG-8, Application for Farmer Tax Exemption**. (See *Forms and Publications* on Page 6 if you are a new applicant and you need a copy of **Form REG-8**.) Submit your completed application as soon as possible and allow at least four weeks for DRS to process your application and mail your exemption permit. To avoid delays in processing your application:

- Use the current **Form REG-8**.
- Complete the **Form REG-8** in full. The name (or names) that appears on the **Form REG-8** must be the same as the name (or names) that is on the federal return.
- Attach copies of any federal income tax return schedules (for example, Schedule C or Schedule F) used to report the gross income and expenses from agricultural production, and copies of the federal return pages, as explained in the instructions for **Form REG-8**. If you submit a copy of Schedule C you **must** include a list of the agricultural products you raise and the total sales from each product.

10. May the names of both spouses appear on the exemption permit?

Yes, an exemption permit is issued in the names of both spouses provided:

- The spouses filed a joint federal income tax return; and
- **Form REG-8** contains both spouses' names and is signed by both spouses.

11. Can I get a refund of sales tax paid on purchases made before my exemption permit was issued?

No. Sales tax will not be refunded for purchases made before an exemption permit is issued. You must present the exemption permit at the time the purchase is made to claim the exemption.

12. Does the exemption permit have to be renewed?

Yes, exemption permits must be renewed every two years. For example, an exemption permit issued in 2002 is valid from October 1 or the date it is issued (whichever is later) until September 30, 2004. Farmers with a current exemption permit will receive a renewal package in 2004. To renew an exemption permit, follow the procedures in Question 9.

A start-up farmer will initially be issued an exemption permit that is valid for two years from the date it is issued. When the farmer renews the exemption permit for the first time, the farmer may be issued an exemption permit for a period of less than two years. This exemption permit will cover a short period until the next regular renewal.

13. May I transfer an exemption permit?

No. The exemption permit may not be transferred or assigned to anyone and is null and void when the original applicant terminates agricultural production. You must return the exemption permit to DRS when you cease agricultural production.

14. What if my address changes or the location of the farm changes?

If you change your address or the location of the farm changes, you must apply for a new exemption permit. To apply, simply complete a new **Form REG-8**, attach the old exemption permit, and submit this information to DRS.

15. If I have an exemption permit and I transfer my farm to a family member for no consideration, will DRS issue an exemption permit to the new farmer?

Yes, as long as the transfer is to your spouse, parent, child, or sibling and the activities of the new owner meet the other qualifications for an exemption permit. The new owner must submit the specified appropriate pages of your federal income tax return with his or her application for an exemption permit. The new owner must also enter your name and Farmer Tax Exemption Number on **Form REG-8**.

For example, a farmer who holds an exemption permit decides to retire and transfers the farm to his daughter, who will continue to run the farm. The daughter may apply for an exemption permit. To avoid delays in issuing a new exemption permit, she should attach a written explanation of her relationship to the former permit holder.

16. If I hold an exemption permit and sell my farm, will DRS issue an exemption permit to the new farmer?

Yes. But if the purchaser does not carry on the agricultural business for at least two years from the date of purchase, the purchaser will be liable for the sales or use tax otherwise due on purchases that were made during the period.

The transfer of the assets of the farm as part of the formation of a new entity also qualifies as a sale for the purposes of this provision. The purchaser of the farm, however, must reapply in his or her own name. For example, a farmer who operates his farm as a sole proprietorship and holds an exemption permit forms a partnership or corporation and transfers the farm to it. The partnership or corporation may apply for an exemption permit. To avoid delays in issuing a new exemption permit, the applicant should also attach to **Form REG-8** a written explanation of its relationship to the former permit holder.

17. What purchases may I make tax-free with an exemption permit?

You may use an exemption permit to buy goods that will be used only in agricultural production. Qualifying purchases include items such as a farm tractor, truck, or refrigeration equipment if the item will be used only in agricultural production. If an item will be used partly in the agricultural production process and partly for other purposes, it is fully taxable. Use of a vehicle purchased with an exemption permit other than in agricultural production will result in liability for use tax on the purchase of the vehicle, plus penalty and interest, even if the Department of Motor Vehicles issued a farm license plate for that vehicle.

For example, if you buy a truck or sport utility vehicle that will be used on the weekend to transport farm produce to a regional market and during the week to commute to a job, you cannot buy the vehicle tax-free. You have to pay the tax because you will not use the vehicle only for agricultural production.

Conn. Gen. Stat. §12-412(63) does not apply to services. Therefore, you may not use an exemption permit to purchase services.

Vegetable seeds suitable for planting to produce food, or an ingredient or flavoring, for human consumption may be purchased exempt from tax without an exemption permit. The exemption applies to the seeds of foods commonly regarded as vegetables, fruits, and herbs. The exemption applies to seeds only, and not to spores, seedlings, roots, bulbs, tubers, cuttings, bushes or any other propagative forms of vegetables, fruits, and herbs. The exemption does not apply to seeds of plants commonly regarded as flowers or of plants considered ornamental, inedible, or for consumption only by animals.

18. What documents must I provide to a retailer to show eligibility for the exemption from sales and use taxes?

You must provide a copy of your exemption permit to the retailer at the time of each purchase or you may issue a *blanket certificate* for a continuing line of exempt purchases. A blanket certificate, which is simply a copy of the original exemption permit with the words "Blanket Certificate" written across the top, is valid from the date it is issued until September 30 of the year the exemption permit expires.

The retailer must collect applicable sales tax unless a copy of the exemption permit is provided at the time of purchase.

19. Can I lease farm equipment tax-free?

Yes. The lease of equipment used exclusively in agricultural production by a farmer who holds a valid exemption permit is exempt from tax.

20. Can I buy services like plowing, planting, harvesting, fertilizer application, or repairs to farm vehicles tax-free with an exemption permit?

No. The exemption is limited to purchases and leases of goods. You are liable for sales and use taxes on the purchase of any taxable service. Plowing, planting, harvesting, fertilizer application, excavating, and other services are taxable as services to income-producing real property. Repairs to a farm vehicle are taxable as motor vehicle repair services. (However, repair parts for vehicles and machinery used exclusively in agricultural production may be purchased with an exemption permit.)

21. If I operate a farm and also provide "custom hire work" such as plowing, fertilizer application, or harvesting to other farmers, can I buy machinery and supplies to perform these services without paying sales tax?

No. You can only use the exemption permit to buy equipment that you will use exclusively in the production of agricultural products grown or raised by

you. Your farm does not qualify for the exemption if equipment and supplies purchased will be used other than for agricultural production.

22. If I am renovating a building used exclusively for agricultural production, can I purchase materials for this project exempt from sales and use taxes?

Yes. Lumber, hardware, and other building materials that are sold directly to a farmer for the construction or renovation of a farm structure that is used exclusively in agricultural production, such as a barn for farm animals or a storage building for the harvest, can be purchased exempt from sales and use taxes. However, if the building materials and supplies are sold to a contractor who is hired to perform the construction services, rather than to the farmer, the sales are fully taxable. Likewise, tax applies to the purchase of materials if the structure is not used exclusively in the agricultural production process. For example, if you purchase lumber to build or renovate a home, the lumber is fully taxable.

23. If I hire a contractor to renovate a farm building, is the charge for the service subject to tax?

Yes. Because the farmer tax exemption does not apply to purchases of taxable services, you are liable for sales tax on the service charges for the renovation or repair of an existing farm structure. However, if the project involves the construction of a new farm building or an addition that expands the cubic footage of an existing farm building, the service charges are exempt from tax as a new construction project.

24. If I hold a valid exemption permit, may I purchase electricity, gas, or heating fuel for farm buildings tax-free?

Yes, as long as 75% or more of the gas, electricity or heating fuel is consumed in a metered building or location that is used for agricultural production. You must complete **CERT-115, Certificate For Exempt Purchases of Gas, Electricity and Heating Fuel**, and provide it to the utility company.

25. Must I obtain a Sales and Use Tax Permit to make sales?

Yes. Any farmer selling goods must register for a *Sales and Use Tax Permit* and must collect sales tax on the sale of taxable goods. Taxable goods include plants, certain seeds, trees, hay, feed, mulch, fertilizer (including manure), livestock, poultry, rabbits,

Christmas trees (living or cut), wreaths, decorated or carved pumpkins, and flowers. Tax must be collected on all such sales, unless they are otherwise exempt.

26. What sales commonly made by farmers are not taxable?

Exempt sales include:

- Food products including maple syrup, honey, eggs, cider, cakes and pies, vegetables, and fruits. Sales of candy and soda are subject to tax because they are not considered food products. See **Policy Statement 2002(2)**, *Sales and Use Taxes on Meals*, for more information.
 - Sales made for resale to a person who is engaged in the business of reselling goods of the type being purchased. The purchaser must provide you with a properly completed *Connecticut Sales and Use Tax Resale Certificate*.
 - Sales made to purchasers who have been issued a Connecticut exemption permit and will use the merchandise being purchased exclusively in agricultural production. (The farmer must provide a copy of the current exemption permit to the seller at the time of purchase.)
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27. When is a farmer subject to use tax on purchases?

Use tax is due when taxable purchases are made but Connecticut sales tax is not paid. Purchases of goods a farmer makes with an exemption certificate when the goods are used exclusively in agricultural production are not taxable and are therefore not subject to use tax. However, a farmer is subject to sales and use taxes on purchases of goods that do not qualify for exemption because the goods are not used exclusively in agricultural production. If a farmer did not pay sales tax on a taxable good that does not qualify for a farmer's exemption, the farmer owes use tax on that good. For example, a dairy farmer buys a hose from an out of state mail order company and does not pay sales tax. The hose is used to rinse the milking room floor and is used by the farmer to water the lawn of his home. The farmer is not using the hose exclusively in agricultural production and owes use tax on the hose.

A farmer can only claim exemption from sales and use taxes on goods. A farmer cannot claim exemption from sales and use taxes on services. A farmer that purchases taxable services without paying sales tax owes use tax on those services. Taxable services include, but are not limited to repair or maintenance services to goods, snow plowing, landscaping, and horticultural services. Report and remit use tax on **Form OS-114**, *Sales and Use Tax Return*.

28. How do I register for a Sales and Use Tax Permit?

To obtain a *Sales and Use Tax Permit*, complete and submit **Form REG-1**, *Business Taxes Registration Application*, and pay the \$20 application fee. The permit is valid for two years and may be renewed without an additional fee. You may apply by mail, on the Internet using the *Fast-File* system, or in person at DRS offices in Hartford, Norwich, Bridgeport, Hamden, and Waterbury.

29. What are the sales and use taxes filing requirements?

Generally, sales and use tax returns are filed quarterly. The quarterly periods and due dates are:

Periods:	Due Dates:
January 1 - March 31	April 30
April 1 - June 30	July 31
July 1 - September 30	October 31
October 1 - December 31	January 31

If a seller's sales and use tax liability exceeds \$4,000 per year, the seller must file monthly returns, which are due on or before the last day of the following month. A seller may request permission to file on an annual basis if his or her sales and use tax liability is less than \$1,000 per year.

30. What are the estimated income tax requirements for farmers?

There is only one estimated payment due on or before January 15 following the end of the taxable year. The required annual payment for farmers is the lesser of:

- A. **66 2/3%** of the income tax shown on your **current year's** Connecticut income tax return; or
- B. **100%** of the income tax shown on your **prior year's** Connecticut income tax return, if you filed a Connecticut income tax return for the prior year that covered a 12-month period.

If, on or before March 1 following the end of the taxable year, you file a Connecticut income tax return and pay the full amount of tax due, you will not be subject to interest for not paying estimated tax. An individual is a farmer for any taxable year if the individual is a farmer as defined in I.R.C. §6654(i)(2) for the taxable year.

31. Must I withhold income taxes from the wages of my agricultural employees?

An agricultural employer must register with DRS by completing **Form REG-1** and withhold Connecticut income tax if:

- The employer is required to withhold federal income tax from the worker's wages; or
- The employer and the employee voluntarily agree to have Connecticut income tax withheld.

See **Informational Publication 2000(11)**, *Employer's Tax Guide – Connecticut Circular CT*, for more information.

32. When can I make exempt purchases of motor vehicle fuels?

If you hold an exemption permit, you may buy motor vehicle fuels exempt from tax as long as the gasoline or diesel fuel will be used either in a vehicle that is not licensed to be operated on state highways, or in a vehicle that is registered with the Department of Motor Vehicles exclusively for use for farming purposes. In addition, the fuel may not be delivered to a tank in which you keep fuel used for both farm and non-farm purposes. You must furnish the fuel distributor with **Form AU-302**, *Farmer Affidavit*, at the time of purchase.

33. Is there another way for a farmer not to be taxed on purchases of motor vehicle fuels?

Yes. Farmers holding an exemption permit who did not claim the exemption discussed in Question 32 may file a claim for refund on or before the last day of May, as long as the refund claim involves the purchase of at least 200 gallons of fuel during the preceding calendar year. You must file a refund claim using either **Form AU-725a**, *Motor Vehicle Fuels Tax Refund Claim – Gasoline – Farm Use Only*, if the claim involves purchases of gasoline, or **Form AU-725b**, *Motor Vehicle Fuels Tax Refund Claim – Diesel – Farm Use Only*, for claims involving purchases of diesel fuel. Submit copies or originals of each numbered slip or invoice issued to you at the time of each purchase with the claim for refund.

Effect on Other Documents: **Informational Publication 2001(16)**, *Farmer's Guide to Sales and Use Taxes, Motor Vehicle Fuels Tax, Estimated Income Tax, and Withholding Tax*, is superseded, and may not be relied upon after the date of issuance of this publication.

Related Forms and Publications: For related publications, please request:

IP 2000(11)	<i>Employer's Tax Guide – Connecticut Circular CT</i>
IP 2001(14)	<i>Business Taxes</i>
IP 2001(26)	<i>Q & A on Sales and Use Taxes for a New Business</i>
PS 2002(2)	<i>Sales and Use Taxes on Meals</i>
SN 92(12)	<i>Sales and Use Taxes on Sales of Certain Lawn and Garden Items</i>
CERT-115	<i>Certificate For Exempt Purchases of Gas, Electricity and Heating Fuel</i>
Form REG-1	<i>Business Taxes Registration Application</i>
Form REG-8	<i>Application for Farmer Tax Exemption Permit</i>
Form AU-302	<i>Farmer Affidavit</i>
Form AU-725a	<i>Motor Vehicle Fuels Tax Refund Claim – Gasoline – Farm Use Only</i>
Form AU-725b	<i>Motor Vehicle Fuels Tax Refund Claim – Diesel – Farm Use Only</i>

Effect of This Document: An Informational Publication is a document issued by DRS that addresses frequently asked questions about a current position, policy, or practice, usually in a less technical question and answer format.

For Further Information: Please call DRS during business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday:

- **1-800-382-9463** (toll-free within Connecticut), or
- **860-297-5962** (from anywhere)

TTY, TDD, and Text Telephone users only may transmit inquiries 24 hours a day by calling 860-297-4911.

Forms and Publications: Forms and publications are available all day, seven days a week:

- **Internet:** Preview and download forms and publications from the DRS Web site: **www.drs.state.ct.us**
- **DRS TAX-FAX:** Call **860-297-5698** from the handset attached to your fax machine and select from the menu.
- **Telephone:** Call **860-297-4753** (from anywhere), or **1-800-382-9463** (toll-free within Connecticut) and select **Option 2** from a touch-tone phone.